

REFERENCE TITLE: telephone usage; interference during emergencies

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SB 1147

Introduced by
Senators Martin: Gould, Huppenthal; Representatives Konopnicki, Yarbrough

AN ACT

AMENDING SECTIONS 13-2915 AND 13-3601, ARIZONA REVISED STATUTES; RELATING TO
EMERGENCY TELEPHONE USE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 13-2915, Arizona Revised Statutes, is amended to
3 read:

4 13-2915. Preventing use of telephone in emergency: false
5 representation of emergency: classification:
6 definitions

7 A. ~~In this section, unless the context otherwise requires:~~

8 1. ~~"Emergency" means a situation in which property or human life are~~
9 ~~in jeopardy and the prompt summoning of aid is essential.~~

10 2. ~~"Party line" means a subscriber's line telephone circuit,~~
11 ~~consisting of two or more main telephone stations connected therewith, each~~
12 ~~station with a distinctive ring or telephone number.~~

13 B. A. Any IT IS UNLAWFUL FOR A person ~~who~~ TO DO ANY OF THE FOLLOWING:

14 1. Knowingly ~~refuses~~ REFUSE to yield or surrender the use of a party
15 line to another person to report a fire or summon police, OR medical or
16 other aid in case of emergency, ~~is guilty of a class 2 misdemeanor.~~

17 C. 2. Any ~~person who asks~~ ASK for or ~~requests~~ REQUEST the use of a
18 party line on the pretext that an emergency exists, knowing that no emergency
19 in fact exists, ~~is guilty of a class 2 misdemeanor.~~

20 3. PREVENT OR INTERFERE WITH THE USE OF A TELEPHONE BY ANOTHER PERSON
21 IN AN EMERGENCY SITUATION.

22 D. B. Every telephone directory THAT IS compiled and distributed to
23 subscribers shall contain a notice explaining this section, ~~sueh~~. THE notice
24 ~~to~~ SHALL be printed in type ~~which~~ THAT is no smaller than any other type on
25 the same page, other than headings, and ~~to~~ SHALL be preceded by the word
26 "warning". ~~The provisions of~~ This subsection ~~shall~~ DOES not apply to
27 directories THAT ARE distributed solely for business advertising purposes,
28 commonly known as classified directories.

29 C. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 2
30 MISDEMEANOR.

31 D. FOR THE PURPOSES OF THIS SECTION:

32 1. "EMERGENCY" MEANS A SITUATION IN WHICH PROPERTY OR HUMAN LIFE IS IN
33 JEOPARDY AND THE PROMPT SUMMONING OF AID IS ESSENTIAL.

34 2. "EMERGENCY SITUATION" MEANS A SITUATION IN WHICH EITHER OF THE
35 FOLLOWING APPLIES:

36 (a) PROPERTY OR HUMAN HEALTH, LIFE OR SAFETY IS IN JEOPARDY AND THE
37 PROMPT SUMMONING OF AID IS ESSENTIAL.

38 (b) IT IS REASONABLE TO BELIEVE THAT A CRIME IS BEING, HAS BEEN OR IS
39 ABOUT TO BE COMMITTED.

40 3. "PARTY LINE" MEANS A SUBSCRIBER'S LINE TELEPHONE CIRCUIT,
41 CONSISTING OF TWO OR MORE MAIN TELEPHONE STATIONS CONNECTED THEREWITH, EACH
42 STATION WITH A DISTINCTIVE RING OR TELEPHONE NUMBER.

1 Sec. 2. Section 13-3601, Arizona Revised Statutes, is amended to read:

2 13-3601. Domestic violence: definition; classification;
3 sentencing option; arrest and procedure for
4 violation; weapon seizure; notice

5 A. "Domestic violence" means any act ~~which~~ THAT is a dangerous crime
6 against children as defined in section 13-604.01 or an offense defined in
7 section 13-1201 through 13-1204, 13-1302 through 13-1304, 13-1502 through
8 13-1504 or 13-1602, section 13-2810, section 13-2904, subsection A, paragraph
9 1, 2, 3 or 6, SECTION 13-2915, section 13-2916 or section 13-2921,
10 13-2921.01, 13-2923, 13-3019, 13-3601.02 or 13-3623, if any of the following
11 applies:

12 1. The relationship between the victim and the defendant is one of
13 marriage or former marriage or of persons residing or having resided in the
14 same household.

15 2. The victim and the defendant have a child in common.

16 3. The victim or the defendant is pregnant by the other party.

17 4. The victim is related to the defendant or the defendant's spouse by
18 blood or court order as a parent, grandparent, child, grandchild, brother or
19 sister or by marriage as a parent-in-law, grandparent-in-law, stepparent,
20 step-grandparent, stepchild, step-grandchild, brother-in-law or
21 sister-in-law.

22 5. The victim is a child who resides or has resided in the same
23 household as the defendant and WHO is related by blood to a former spouse of
24 the defendant or to a person who resides or WHO has resided in the same
25 household as the defendant.

26 B. A peace officer ~~may~~, with or without a warrant, MAY arrest a person
27 if the officer has probable cause to believe that domestic violence has been
28 committed and the officer has probable cause to believe that the person to be
29 arrested has committed the offense, whether such offense is a felony or a
30 misdemeanor and whether such offense was committed within or without the
31 presence of the peace officer. In cases of domestic violence involving the
32 infliction of physical injury or involving the discharge, use or threatening
33 exhibition of a deadly weapon or dangerous instrument, the peace officer
34 shall arrest a person, with or without a warrant, if the officer has probable
35 cause to believe that the offense has been committed and the officer has
36 probable cause to believe that the person to be arrested has committed the
37 offense, whether such offense was committed within or without the presence of
38 the peace officer, unless the officer has reasonable grounds to believe that
39 the circumstances at the time are such that the victim will be protected from
40 further injury. Failure to make an arrest does not give rise to civil
41 liability except pursuant to section 12-820.02. In order to arrest both
42 parties, the peace officer shall have probable cause to believe that both
43 parties independently have committed an act of domestic violence. An act of
44 self-defense that is justified under chapter 4 of this title is not deemed to
45 be an act of domestic violence. The release procedures available under

1 section 13-3883, subsection A, paragraph 4 and section 13-3903 are not
2 applicable to arrests made pursuant to this subsection.

3 C. A peace officer may question the persons who are present to
4 determine if a firearm is present on the premises. On learning or observing
5 that a firearm is present on the premises, the peace officer may temporarily
6 seize the firearm if the firearm is in plain view or was found pursuant to a
7 consent to search and if the officer reasonably believes that the firearm
8 would expose the victim or another person in the household to a risk of
9 serious bodily injury or death. A firearm that is owned or possessed by the
10 victim shall not be seized unless there is probable cause to believe that
11 both parties independently have committed an act of domestic violence.

12 D. If a firearm is seized pursuant to subsection C of this section,
13 the peace officer shall give the owner or possessor of the firearm a receipt
14 for each seized firearm. The receipt shall indicate the identification or
15 serial number or other identifying characteristic of each seized
16 firearm. Each seized firearm shall be held for at least seventy-two hours by
17 the law enforcement agency that seized the firearm.

18 E. If a firearm is seized pursuant to subsection C of this section,
19 the victim shall be notified by a peace officer before the firearm is
20 released from temporary custody.

21 F. If there is reasonable cause to believe that returning a firearm to
22 the owner or possessor may endanger the victim, the person who reported the
23 assault or threat or another person in the household, the prosecutor shall
24 file a notice of intent to retain the firearm in the appropriate superior,
25 justice or municipal court. The prosecutor shall serve notice on the owner
26 or possessor of the firearm by certified mail. The notice shall state that
27 the firearm will be retained for not more than six months following the date
28 of seizure. On receipt of the notice, the owner or possessor may request a
29 hearing for the return of the firearm, to dispute the grounds for seizure or
30 to request an earlier return date. The court shall hold the hearing within
31 ten days after receiving the owner's or possessor's request for a
32 hearing. At the hearing, unless the court determines that the return of the
33 firearm may endanger the victim, the person who reported the assault or
34 threat or another person in the household, the court shall order the return
35 of the firearm to the owner or possessor.

36 G. A peace officer is not liable for any act or omission in the good
37 faith exercise of the officer's duties under subsections C, D, E and F of
38 this section.

39 H. Each indictment, information, complaint, summons or warrant that is
40 issued and that involves domestic violence shall state that the offense
41 involved domestic violence and shall be designated by the letters DV. A
42 domestic violence charge shall not be dismissed or a domestic violence
43 conviction shall not be set aside for failure to comply with this subsection.

44 I. A person who is arrested pursuant to subsection B of this section
45 may be released from custody in accordance with the Arizona rules of criminal

1 procedure or any other applicable statute. Any order for release, with or
2 without an appearance bond, shall include pretrial release conditions that
3 are necessary to provide for the protection of the alleged victim and other
4 specifically designated persons and may provide for additional conditions
5 that the court deems appropriate, including participation in any counseling
6 programs available to the defendant.

7 J. When a peace officer responds to a call alleging that domestic
8 violence has been or may be committed, the officer shall inform in writing
9 any alleged or potential victim of the procedures and resources available for
10 the protection of ~~such~~ THE victim including:

11 1. An order of protection pursuant to section 13-3602, an injunction
12 pursuant to section 25-315 and an injunction against harassment pursuant to
13 section 12-1809.

14 2. The emergency telephone number for the local police agency.
15 3. Telephone numbers for emergency services in the local community.

16 K. A peace officer is not civilly liable for noncompliance with
17 subsection J of this section.

18 L. An offense that is included in domestic violence carries the
19 classification prescribed in the section of this title in which the offense
20 is classified. If the defendant committed a felony offense listed in
21 subsection A of this section against a pregnant victim and knew that the
22 victim was pregnant or if the defendant committed a felony offense causing
23 physical injury to a pregnant victim and knew that the victim was pregnant,
24 the maximum sentence otherwise authorized shall be increased by up to two
25 years.

26 M. If the defendant is found guilty of a first offense included in
27 domestic violence, the court shall provide the following written notice to
28 the defendant:

29 You have been convicted of an offense included in domestic
30 violence. You are now on notice that:

31 1. If you are convicted of a second offense included in
32 domestic violence, you may be placed on supervised probation and
33 may be incarcerated as a condition of probation.

34 2. A third or subsequent charge may be filed as a felony
35 and a conviction for that offense shall result in a term of
36 incarceration.

37 N. The failure or inability of the court to provide the notice
38 required under subsection M of this section does not preclude the use of the
39 prior convictions for any purpose otherwise permitted.